

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OLIVIA RUX, et. al.,

Case No. 08 Civ. 6588 (AKH)

Petitioners,

-against-

ABN-AMRO BANK N.V., AMERICAN
EXPRESS BANK LTD., BANK OF NEW YORK,
BANK OF CHINA, CITIBANK, N.A.,
DEUTSCHE BANK A.G., HSBC BANK USA,
N.A., and JPMORGAN CHASE BANK, N.A.,

Respondents.

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JPMORGAN CHASE BANK, N.A.,

Third-Party Petitioner,

**KFW BANK’S ANSWER TO
THE THIRD-PARTY
PETITION AND
STATEMENT OF CLAIM
AND COUNTERCLAIM**

-against-

THE REPUBLIC OF SUDAN, et. al.

Third-Party Respondents.

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Third-Party Respondent, KfW BANK (“KfW”), sued herein as
Kreditanstalt Fur Wiederaufbau (KfW), by its attorneys Keating & McHugh, in answer to
the Third-Party Petition (“Petition”) of Third-Party Plaintiff JPMORGAN CHASE
BANK, N.A. (hereinafter “JPMCB”), alleges upon information and belief as follows:

1. Denies knowledge or information sufficient to form a belief as to
the truth of the allegations contained in paragraph 1 of the Petition.

2. Admits that JPMCB has offices and branches in the City, County and State of New York as alleged in paragraph 2 of the Petition, and denies knowledge or information sufficient to form a belief as to the truth of each and every other allegation contained in paragraph 2 of the Petition.

3. Admits the allegations contained in paragraph 3 of the Petition.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 4, 5, 6, 7, and 8 of the Petition.

5. Admits the allegations contained in paragraph 9 of the Petition insofar as such allegations relate to KfW, and denies knowledge or information sufficient to form a belief as to the truth of each and every other allegation contained in paragraph 9 of the Petition.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 of the Petition.

7. Admits the allegations contained in paragraphs 20, 21 and 22 of the Petition.

8. For its answer to paragraph 23 of the Petition, KfW repeats and realleges each and every denial, admission and response in its answer to the paragraphs of the Petition designated “1” through “22” with the same force and effect as if herein set forth at length.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24, 25, 26, and 27 of the Petition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

10. The Petition fails to state a cause of action upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

11. The blocked funds of KfW are not attachable under the Terrorism Risk Insurance Act (“TRIA”), 28 U.S.C. 1610 note.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

12. Third-Party Respondent KfW claims the benefit of all rights and defenses that may be available to it under the Terrorism Risk Insurance Act (“TRIA”), 28 U.S.C. 1610 note.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

13. Third-Party Respondent KfW is not an agency or instrumentality of the Government of Sudan.

AS AND FOR A STATEMENT OF CLAIM AND COUNTERCLAIM
AGAINST THIRD-PARTY PLAINTIFF JPMCB

14. Third-Party Plaintiff and Counterclaim Defendant JPMCB is doing business in the City, County and State of New York.

15. Third-Party Defendant and Counterclaim Plaintiff KfW is a public law institution established under the laws of the Federal Republic of Germany with its principal place of business in Frankfurt, Germany.

16. On or about April 29, 2005, JPMCB blocked a wire transfer in the amount of \$150,000.00 from KfW's account with JPMCB in New York (the "Blocked Funds").

17. JPMCB purportedly blocked the aforesaid wire transfer pursuant to the Sudanese Sanctions Regulations.

18. The Blocked Funds are not the property of the Government of Sudan or of any agency or instrumentality of the Government of Sudan.

19. The Blocked Funds are the sole property of KfW.

20. KfW is not an agency or instrumentality of the Government of Sudan.

21. JPMCB has improperly and wrongfully withheld the Blocked Funds from KfW.

22. The Blocked Funds in the Registry of the Court or in the hands of JPMCB belong to KfW.

23. By reason of the premises, KfW demands that the Blocked Funds be returned to KfW.

WHEREFORE, Third-Party Respondent KfW BANK demands judgment (1) against Third-Party Plaintiff JPMORGAN CHASE BANK, N.A. dismissing the Third-Party Petition with costs, disbursements and reasonable attorneys fees, (2) on its claim and counterclaim that the Blocked Funds in the Registry of the Court or in the

